

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

VIRGINIA MCKINNE BROOKS

VS.

CIVIL ACTION NO. 4:04CV291-WAP-DAS

NORTHWEST AIRLINES, INC., ET AL.

ORDER

This matter is before the court on motion of the defendant for a protective order (# 109). Also before the court are the plaintiff's motions to stay of the present action (# 115) pending a decision on her appeal of the magistrate judge's decision denying her request to amend her complaint. After considering the motions and the responses thereto, the court finds as follows:

Protective Order

With its motion, the defendants seek a protective order for certain exhibits listed in the final pre-trial order that are not in the plaintiff's possession. These are documents the plaintiff attempted to obtain with a subpoena after the discovery deadline passed. The court quashed the subpoenas and denied plaintiff's requests to conduct discovery out of time. While the court understands the defendant's concern and is clearly aware of matters discussed at the pretrial conference, the court agrees with the plaintiff that there is no authority for this court to prematurely prohibit plaintiff from issuing a trial subpoena, but the court may quash or modify a subpoena under Rule 45(c)(3). Accordingly, defendant's motion shall be denied.

Motion for Stay

The plaintiff seeks a stay from the order entered by this court on August 14, 2009 denying plaintiff's motion to amend the complaint. The plaintiff has appealed that decision to the district judge and seeks a stay while the court makes its decision. The plaintiff has offered no authority

in support of his motion, and because the plaintiff filed the present action almost five years ago and because the court entered the second case management order in this matter almost one year ago, the court finds the motion is not well taken. Trial in this matter is set for October 5, 2009, and the parties are at long last due their day in court. Accordingly, this motion shall also be denied.

IT IS, THEREFORE, ORDERED:

1. That defendants' motion for a protective order (# 109) is denied; and
2. That plaintiff's motion to stay pending an appeal to the district judge (# 115) is hereby denied.

SO ORDERED, this the 11th day of September 2009.

/s/ David A. Sanders
UNITED STATES MAGISTRATE JUDGE